

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JERRY JAMES BIAS,)	
)	
Plaintiff)	
)	
vs.)	Case No. 2:08-cv-01819-JHH-HGD
)	
CHANTE BIAS CROSBY, et al.,)	
)	
Defendants)	

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on February 23, 2009, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failing to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b).

The plaintiff filed objections to the report and recommendation on March 11, 2009.

In his objections, the plaintiff contends Defendant Crosby, a private person acting in her individual capacity, became an employee of the Jefferson County Sheriff's Office when she "sign[ed] a complaint or information against the plaintiff." (Doc. #9 at 1). First, the plaintiff's claims against Defendant Crosby for slander and libel are not actionable under 42 U.S.C. § 1983, since they arise under state law and not the Constitution. Second, even if the plaintiff had alleged a deprivation under the

Constitution or federal law, the plaintiff's reasoning that Crosby became a state employee by signing a complaint against him is without merit and fails to establish that Crosby acted under color of state law, which is an essential element in a § 1983 action.

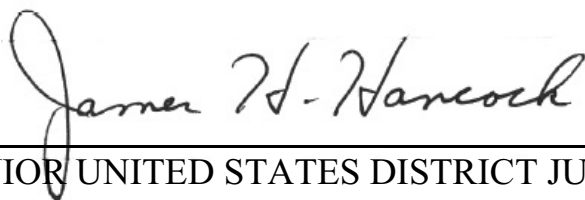
Next, the plaintiff contends that Defendants Barber and Roberts are not immune from suit because they "fabricat[ed] evidence." (*Id.* at 2). The plaintiff has not alleged any facts in support of his claims and has failed to show that Defendants Barber and Roberts acted in any manner other than as prosecutors.

Finally, the plaintiff reasons that his acquittal is sufficient evidence that the defendants conspired to violate his constitutional rights. (*Id.*) "In conspiracy cases, a defendant must be informed of the nature of the conspiracy which is alleged. It is not enough to simply aver in the complaint that a conspiracy existed." *Fullman v. Graddick*, 739 F.2d 553, 557 (11th Cir. 1984). The plaintiff has failed to state any facts to support his allegations of conspiracy.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is

due to be dismissed pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DONE this the 24th day of March, 2009.

A handwritten signature in cursive script, reading "James H. Hancock". The signature is written in black ink and is positioned above a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE